

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ERIC L. JEFFRIES,)	CASE NO. C-1-02-351
	:	
Plaintiff,)	JUDGE BECKWITH
	:	Magistrate Judge Hogan
v.)	
	:	PLAINTIFF'S MEMORANDUM
CENTRE LIFE INSURANCE CO.,)	IN OPPOSITION TO MOTION
	:	<u>FOR RECONSIDERATION</u>
Defendant.)	

Defendant's most recent Motion For Reconsideration (*Doc. 243*) should be denied. There are no new or different arguments contained in the Motion. And the only purpose for filing this memorandum is to address the allegation of the alleged *ex parte* communications and defendant's final comment.

There has been no *ex parte* communication. And throughout the course of this action, defendant's counsel has repeatedly contacted either the Magistrate Judge's staff or the District Court Judge's staff without the knowledge of plaintiff's counsel. Moreover, because of the urgent nature of plaintiff's request to be heard on the issue of defendant's withholding and ultimate provision of 18 videotapes with over 20 hours of surveillance footage on the day before trial, it was imperative that plaintiff's counsel advise the Court's Law Clerk of the issue and need for hearing.

Finally, defendant's counsel's final paragraph recitation of an admittedly sarcastic comment plaintiff's counsel made to him is taken out of context. One day prior to that comment, during settlement discussions, defendant's counsel sarcastically complained that he

was “not allowed to have any evidence at trial.” Plaintiff's counsel's remark mimicked, related to, and replied to defendant's counsel's comment. In addition, the comment was made in the context of settlement in an attempt to get defendant's counsel to see that the his perception of the admissibility and/or value of the new surveillance was not on the mark and, therefore, shouldn't prohibit the parties from bridging the \$800,000 disparity in settlement.

The motion should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The foregoing was electronically filed and thereby delivered to William R. Ellis, Esq., Wood & Lamping LLP, 600 Vine Street, Suite 2500, Cincinnati, Ohio 45202, this 17th day of February, 2003.

/s Michael A. Roberts